

**MINUTES OF  
FAIRFAX COUNTY PLANNING COMMISSION  
THURSDAY, SEPTEMBER 16, 2010**

PRESENT: Walter L. Alcorn, Commissioner At-Large  
Frank A. de la Fe, Hunter Mill District  
Jay P. Donahue, Dranesville District  
Earl L. Flanagan, Mount Vernon District  
Suzanne F. Harsel, Braddock District  
James R. Hart, Commissioner At-Large  
John L. Litzenberger, Jr., Sully District  
Peter F. Murphy, Jr., Springfield District  
Timothy J. Sargeant, Commissioner At-Large

ABSENT: Janet R. Hall, Mason District  
Kenneth A. Lawrence, Providence District  
James T. Migliaccio, Lee District

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The meeting was called to order at 8:17 p.m. by Peter F. Murphy, Jr., in the Board Auditorium of the Fairfax County Government Center, 12000 Government Center Parkway, Fairfax, Virginia 22035.

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**COMMISSION MATTERS**

On behalf of the Murphy family, Chairman Murphy expressed appreciation to those who had sent sympathy cards, notes, and letters on the passing of his wife's mother.

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Commissioner Litzenberger MOVED THAT THE PLANNING COMMISSION DEFER THE PUBLIC HEARING ON RZ 2010-SU-002, STEVEN C. BRYANT, TO A DATE CERTAIN OF SEPTEMBER 30, 2010.

Commissioner de la Fe seconded the motion which carried unanimously with Commissioners Hall, Lawrence, and Migliaccio absent from the meeting.

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**FS-B09-134 – CLEARWIRE, 7617 Little River Turnpike**

Chairman Murphy MOVED THAT THE PLANNING COMMISSION CONCUR WITH THE CONSENT AGENDA ITEM, FS-B09-134, BY CLEARWIRE.

Without objection, the motion carried unanimously with Commissioners Hall, Lawrence, and Migliaccio absent from the meeting.

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456A-S97-6-3 – T-MOBILE, 6140 Rolling Road (Springfield Governmental Center)

Chairman Murphy MOVED THAT THE PLANNING COMMISSION CONCUR WITH 456A-S97-6-3.

Commissioner de la Fe seconded the motion which carried unanimously with Commissioners Hall, Lawrence, and Migliaccio absent from the meeting.

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FS-D09-2 – CRICKET COMMUNICATIONS, 1089 Liberty Meeting Court

Commissioner Donahue MOVED THAT THE PLANNING COMMISSION CONCUR WITH STAFF'S DETERMINATION IN THE MEMORANDUM DATED SEPTEMBER 15, 2010, THAT THE PROPOSED EXPANSION OF THE EXISTING TELECOMMUNICATIONS FACILITY BY INCREASING THE HEIGHT OF THE EXISTING BELL TOWER, WHICH HOUSES THE ANTENNAS, TO 120 FEET AND ADDING ANTENNAS LOCATED IN DRANESVILLE UNITED METHODIST CHURCH, 1089 LIBERTY MEETING COURT, IS SUBSTANTIALLY IN ACCORD WITH THE RECOMMENDATIONS OF THE ADOPTED COMPREHENSIVE PLAN, AND SHOULD BE CONSIDERED A "FEATURE SHOWN" PURSUANT TO *VIRGINIA CODE* SECTION 15.2-2232, AS AMENDED.

Commissioner Flanagan seconded the motion which carried unanimously with Commissioner Sargeant not present for the vote; Commissioners Hall, Lawrence, and Migliaccio absent from the meeting.

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ORDER OF THE AGENDA

Secretary Harsel established the following order of the agenda:

1. 2232A-D09-2-1 – NEWPATH NETWORKS, LLC, AND NEW CINGULAR WIRELESS PCS, LLC
2. FDPA-C-194 – DANBURY FOREST COMMUNITY ASSOCIATION
3. SEA 99-D-043 – CRICKET COMMUNICATIONS, INC. AND CELLCO PARTNERSHIP D/B/A VERIZON WIRELESS

This order was accepted without objection.

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2232A-D09-2-1 – NEWPATH NETWORKS, LLC, AND NEW CINGULAR WIRELESS PCS, LLC – Appl. to construct three antenna sites (nodes) in VA Dept. of Transportation right-of-way on portions of Arnon Chapel Road, Seneca Road, and Utterback Store Road for a telecommunications Distributed Antenna System (DAS) in Great Falls. Each node will consist of a taller replacement utility pole with concealed antennas at the top, a pole-mounted equipment cabinet, and fiber optic cable. Portions of Tax Maps 6-2, 7-1, 8-3. Area III. DRANESVILLE DISTRICT. PUBLIC HEARING.

Commissioner Sargeant disclosed that as an employee of Dominion Virginia Power, he would recuse himself from this public hearing since the case involved antenna sites (nodes) co-located on replacement roadside utility poles owned by Dominion.

David Jillson, Planning Division, Department of Planning and Zoning, presented the staff report, a copy of which is in the date file. He noted that staff recommended that the Planning Commission find the proposal substantially in accord with provisions of the adopted Comprehensive Plan.

Edward Donohue, Esquire, with Donohue & Stearns, PLC, explained that a field judgment had been made to install three nodes in locations not identified in the original application because the approved locations were no longer viable. He said the applicant was now requesting approval to install two nodes in new locations and for the third one to remain in place.

Commissioner Hart expressed grave concern that the nodes had been installed in unapproved locations and said an amendment should have been filed as soon as the violations had been discovered. Mr. Donohue explained that the approved locations could not be used because the electrical plant had been modified before the nodes had been installed. He said a procedure was now in place to ensure that equipment was only installed in approved locations. Commissioner de la Fe said he shared Commissioner Hart's concern.

Responding to a question from Commissioner Flanagan, Mr. Donohue said he believed that the sites met the criteria of location, character, and extent as specified in *Virginia Code* Section 15.2-2232, as amended. He noted that the nodes would be adequately screened and would have the least visual impact, as specified in Policy f.

Chairman Murphy called the first listed speaker and recited the rules for public testimony.

Archie Brown, 654 Nalls Farm Way, Great Falls, expressed concern about the height of the pole for Node 12A and said it would have an adverse visual impact on the community. He circulated photographs showing the visibility of the poles from homes that would be affected. (A copy of his remarks is in the date file.)

In reply to a question from Commissioner Donahue, Mr. Brown explained that his photographs had been taken from the backyards of adjacent homes and that photographs in the staff report that had been taken from the street perspective.

Miriam Tsantes, 650 Nalls Farm Way, Great Falls, distributed a photograph of the unauthorized Node 12A that had been taken from her backyard, a copy of which is in the date file. She said the applicant had shown a blatant disregard for the intent of the original plan and that the new site was not compatible with the character of the neighborhood. She also expressed concern that there was no penalty, consequence, and/or compensation to the County or homeowners affected by the applicant's unethical practices.

Nancy Carter, 662 Nalls Farm Way, Great Falls, also expressed opposition to Node 12A because it would have an adverse visual impact on the character of the neighborhood. She said the pole was too tall and was not sufficiently screened.

Replying to questions from Chairman Murphy, Ms. Carter said the backyards of the houses along Nalls Farm Way faced Seneca Road. She noted that she could not see any of the utility poles from her house except for the one for Node 12A.

Answering a question from Commissioner Hart, Ms. Carter said in her opinion, the most acceptable locations for the nodes were the previously approved locations.

George Tsantes, 650 Nalls Farm Way, Great Falls, spoke in opposition to the proposal because it was not in accord with the Comprehensive Plan, lacked adequate screening, and would have an adverse impact on the character of the neighborhood. He asked if the applicant would be responsible for replacing damaged trees.

Pankaj Malik, 11501 Great Falls Way, Great Falls, agreed with the position of the previous speakers. He asked if data was available about the number of dropped calls on Seneca Road and if there were future plans to place more antennas by NewPath or any other carriers on the poles.

Scott Coolidge, 658 Nalls Farm Way, Great Falls, also agreed with the position of the previous speakers and expressed concern that the applicant had not placed Node 12A in the approved location.

Mr. Coolidge responded to questions from Chairman Murphy about the visibility of the pole from his home.

Douglas Fleit, Chair of The Ridings of Great Falls Community Association's Architectural Review Board, 11621 Great Falls Way, Great Falls, urged the Commission to require Newpath to find a more suitable location with sufficient screening for Node 12A.

Commissioners discussed the perspective from which the photographs in the staff report had been taken compared to those taken by abutting property owners.

Jim Condon, 662 Nalls Farm Way, Great Falls, commented on the visibility of the pole from the perspective of abutting property owners.

Commissioner Alcorn commented that he thought the pole for Node 12A was the least intrusive of the five poles based on the photographs.

Paul Rehmus, 9502 Arnon Chapel Road, Great Falls, said two electric transformers and a phone switching box were also located in the neighborhood and objected to further intrusions. (A copy of his remarks is in the date file.)

Commissioner Donahue and Mr. Rehmus discussed the visibility of the pole from his home.

Hany Hassan, 404 Chesapeake Drive, Great Falls, requested the Pole 27A be removed because it was visually intrusive.

There being no more speakers, Chairman Murphy called for a rebuttal statement from Mr. Donohue.

Mr. Donohue stated that photo simulations had been used to depict the visual impact of the Distributed Antenna System (DAS) poles from the right-of-way at ground level because balloon tests could not be used due to safety issues. He explained that the simulations were never made from backyard perspectives. He said the applicant felt that the proposed relocation of Node 12A met character, location, and extent requirements. He pointed out if an electric or telephone company determined that a utility pole was unsuitable for installation of DAS equipment, another location had to be found even though it might not be as well screened. Mr. Donohue said that Node 27A, near Mr. Hassan's property, was a low-impact solution with a low-profile mount on a utility pole in the right-of-way in conformance with the recommendations of the Telecommunications Task Force. He noted that the applicant had met with the Great Falls Citizen Association and the Hunter Mill Defense League. He said the proposal to relocate the two poles and let the third one remain in its existing location was consistent with the Comprehensive Plan and the Policy Plan.

Responding to a question from Commissioner Alcorn, Mr. Donohue said when the construction crew had been informed by Virginia Power that the approved pole could not be used, a decision had been made in the field to use another pole that was in the approximate location. He assured Commissioner Alcorn that procedures were in place to make sure this did not happen again.

Commissioner Hart asked why the unapproved poles were still in place and why the County had had to file suit. Mr. Donohue responded that they had not been taken down because they were providing service to customers and because the sites were in conformance with the Comprehensive Plan and the *Code of Virginia*. Commissioner Hart said in his opinion the poles should have come down immediately when it was discovered they were in the wrong place and he felt it was arrogant of the applicant not to do so. Commissioner Donahue said that due to pending litigation, this issue should not be discussed any further.

In response to questions from Commissioner Harsel, Mr. Donohue said that the radome on top of the pole and the box on the side were designed to accommodate multiple carriers.

Commissioner Flanagan said he believed the site for Node 12A was acceptable and said painting it gray instead of copper made it less conspicuous.

Responding to questions from Commissioner Donahue, Mr. Donohue said that if the poles were shorter they would not meet coverage objectives and more poles would be needed. He said he did not have dropped call data for Seneca Road.

There were no further comments or questions from the Commission and staff had no closing remarks; therefore, Chairman Murphy closed the public hearing and recognized Commissioner Donahue for action on this application. (A verbatim excerpt is in the date file.)

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Commissioner Donahue MOVED THAT THE PLANNING COMMISSION FIND 2232A-D09-2-1, AS AMENDED, AS IT CONCERNS NODES GFE17A AND GFE27A, SUBSTANTIALLY IN ACCORD WITH PROVISIONS OF THE ADOPTED COMPREHENSIVE PLAN, AND APPROVE 2232A-D09-2-1 AS IT CONCERNS THOSE TWO NODES.

Chairman Murphy seconded the motion for discussion.

Following discussion, Commissioner Murphy MOVED a substitute motion THAT THE PLANNING COMMISSION DEFER DECISION ON 2232A-D029-2-1 TO A DATE CERTAIN OF SEPTEMBER 30, 2010, WITH THE RECORD REMAINING OPEN FOR WRITTEN COMMENT.

Commissioner Hart seconded the substitute motion which carried by a vote of 7-1 with Commissioner Donahue opposed; Commissioner Sargeant recused; Commissioners Hall, Lawrence, and Migliaccio absent from the meeting.

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FDPA-C-194 – DANBURY FOREST COMMUNITY ASSOCIATION – Appl. to amend the Final Development Plan for FDP-C-194 to permit building additions, site modifications, and associated changes to development conditions. Located on approx. 68.04 ac. of land zoned PDH-3. BRADDOCK DISTRICT. PUBLIC HEARING.

Keith Martin, Esquire, with Sack, Harris & Martin, PC, reaffirmed the affidavit dated August 27, 2010. There were no disclosures by Commission members.

Suzianne Zottl, Zoning Evaluation Division, Department of Planning and Zoning, presented the staff report, a copy of which is in the date file. She noted that staff recommended approval of the application.

In response to a question from Commissioner Alcorn, Ms. Zottl said a Final Development Plan Amendment (FDPA) was required to modify the minimum yard requirement. She added that staff felt future improvements should also be shown so an interpretation would not be needed later.

Commissioner Hart noted that the staff report stated that the minimum side yards should be reduced from ten feet to four feet. He wanted to make sure that this would not cause a permitting problem for something allowed under the Zoning Ordinance but not under the Fire Code. Ms. Zottl said she would research this issue and have an answer by next week.

Responding to a question from Commissioner de la Fe, Ms. Zottl explained that the proposal, if approved, would in no way affect the covenants that governed the Danbury Forest Community Association.

In response to a question from Commissioner Flanagan, Ms. Zottl said open space improvements had been made that were not shown on the original development plan and approval of the application would legalize them.

Commissioner Harsel indicated that only the homeowners listed on the affidavit would be allowed to make open space improvements. Ms. Zottl said the permission to make improvements could be transferred to a new owner but if someone not on the affidavit wished to make an improvement, he or she would need to file an FDPA. She noted that building permits would be required to make improvements.

Responding to a question from Commissioner Litzenberger, Ms. Zottl said no building additions had been constructed but that open space improvements not on the plan had been made by the community association.

Mr. Martin stated that the application had started out as a simple request to allow building additions but that during the process, it had been discovered that improvements such as trails, a tot lot, a community garden, and a shed had been constructed that were not shown on the FDP. Mr. Martin said the association had dropped plans for a dog park because it had become too controversial.

Responding to a question from Commissioner Harsel, Mr. Martin said that staff agreed that the existing vegetation along the Kings Park boundary was sufficient although Danbury Forest could install fences if it chose to do so.

Chairman Murphy called the first listed speaker and recited the rules for testimony before the Commission.

Steven Woodbury, 5250 Lonsdale Drive, Springfield, stated that the enhancement project to allow certain kinds of additions to Danbury Forest homes began in 2000 with the support of then Braddock District Supervisor Sharon Bulova. He explained that FDPA approval was necessary to extend the setbacks of units to allow one-story additions to be built. He said 214 of 326 owners had signed an affidavit required to modify the setback of their property. Mr. Woodbury said approval of the application would address zoning violations received for uses not shown on the development plan and would also allow additions to be constructed.

Cheryl McDonald, At-Large Member of the Danbury Forest Community Association, 5426 Donnelly Court, Springfield, described the long and arduous process that began in 2001 to allow changes to side and rear yard setbacks. She pointed out that Danbury Forest was the first townhome community in the County to file such an application and thanked everyone who had worked on this project.

Stephen Terpak, 8374 Uxbridge Court, Springfield, expressed opposition to the application because additions would exacerbate the existing severe erosion problem. He said owners were scared into signing affidavits because they were told that if they did not the value of their home would decline and they would have to pay \$8,000 if they wanted to construct an addition in the future. He pointed out that consent of 75 percent of landowners was needed to amend the covenants and that only two-thirds had signed affidavits. (A copy of his remarks is in the date file.)

Commissioner Harsel pointed out to Mr. Terpak that the covenants were not being amended.

Frank Divita, President of the Danbury Forest Community Association, 8402 Uxbridge Court, Springfield, said the Board of Directors strongly supported approval of the application and thanked owners and County staff involved in this project.

Randy Crabtree, 5227 Southampton Drive, Springfield, a resident of Kings Park and Political Affairs Committee Chair, expressed support for the application with the removal of the dog park.

Ken Fussell, 5694 Kirkham Court, Springfield, former member of the Danbury Forest Board of Directors, commented on side unit setbacks and said erosion issues had been addressed with County staff.

Ford Cochran, Vice President of the Danbury Forest Community Association, 5525 Heston Court, Springfield, said although he had concerns at the beginning of the project that building additions could degrade the quality of the community, he now supported the proposal.

Jay Santry, 8302 Uxbridge Court, Springfield, expressed support for the application.

Harmohinder Singh Bal, 5405 Weymouth Drive, Springfield, said Danbury Forest residents had dumped debris behind his property which was a nuisance and a breeding ground for rodents. (His remarks and photographs are in the date file.)



There being no more speakers, Chairman Murphy called for a rebuttal statement from Mr. Martin.

Commenting on the remarks of the last speaker, Mr. Martin said Dominion Virginia Power had cut down trees and left debris in its easement behind Mr. Bal's home. He said Danbury Forest residents had also deposited debris in that location. He said the community association would clean up that area, hopefully with the help of the power company.

Commissioner Harsel said she would defer the decision on this application to September 22, 2010 so that the concern raised by Commissioner Hart regarding Fire Marshal permits could be addressed.

There were no further comments or questions from the Commission and staff had no closing remarks; therefore, Chairman Murphy closed the public hearing and recognized Commissioner Harsel for action on this application. (A verbatim excerpt is in the date file.)

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Commissioner Harsel MOVED THE PLANNING COMMISSION DEFER DECISION ON FDPA C-194 TO A DATE CERTAIN OF WEDNESDAY, SEPTEMBER 22, 2010, WITH THE RECORD REMAINING OPEN FOR COMMENT.

Commissioner Flanagan seconded the motion which carried unanimously with Commissioner Sargeant not present for the vote; Commissioners Hall, Lawrence, and Migliaccio absent from the meeting.

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Chairman Murphy relinquished the Chair to Vice Chairman Alcorn.

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SEA 99-D-043 – CRICKET COMMUNICATIONS, INC. AND  
CELLCO PARTNERSHIP D/B/A VERIZON WIRELESS – Appl.  
under Sect. 3-104 of the Zoning Ordinance to amend SE 99-D-043  
previously approved for a telecommunications facility (100 ft. tall bell  
tower) to permit a 20 ft. high extension to the bell tower, other site  
modifications, and changes in development conditions. Located at  
1089 Liberty Meeting Ct. on approx. 8.11 ac. of land zoned R-1. Tax  
Map 6-4 ((1)) 66B, 70A; 6-4 ((14)) A. DRANESVILLE DISTRICT.  
PUBLIC HEARING.

Colleen Canovas, Esquire, with Donohue & Stearns, PLC, reaffirmed the affidavit dated August 9, 2010. There were no disclosures by Commission members.

Commissioner Donahue asked that Vice Chairman Alcorn ascertain whether there were any speakers for this application. There being none, he asked that presentations by staff and the applicant be waived, and the public hearing closed. No objections were expressed; therefore, Vice Chairman Alcorn closed the public hearing and recognized Commissioner Donahue for action on this application. (A verbatim excerpt is in the date file.)

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Commissioner Donahue MOVED THAT THE PLANNING COMMISSION RECOMMEND THAT THE BOARD OF SUPERVISORS APPROVE SEA 99-D-043, SUBJECT TO THE PROPOSED DEVELOPMENT CONDITIONS CONTAINED IN APPENDIX 1 OF THE STAFF REPORT, WHICH ARE DATED SEPTEMBER 1, 2010.

Commissioners Murphy and Litzenberger seconded the motion which carried unanimously with Commissioners Harsel and Sargeant not present for the vote; Commissioners Hall, Lawrence, and Migliaccio absent from the meeting.

Commissioner Donahue MOVED THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS APPROVAL OF A MODIFICATION OF THE TRANSITIONAL SCREENING REQUIREMENT ALONG THE SOUTHERN BOUNDARY, IN FAVOR OF THAT SHOWN ON THE SEA/SPA PLAT.

Commissioners Murphy and Litzenberger seconded the motion which carried unanimously with Commissioners Harsel and Sargeant not present for the vote; Commissioners Hall, Lawrence, and Migliaccio absent from the meeting.

Commissioner Donahue MOVED THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS APPROVAL OF A WAIVER OF THE BARRIER REQUIREMENTS ALONG ALL PROPERTY BOUNDARIES, IN FAVOR OF THAT SHOWN ON THE SEA/SPA PLAT.

Commissioners Murphy and Litzenberger seconded the motion which carried unanimously with Commissioners Harsel and Sargeant not present for the vote; Commissioners Hall, Lawrence, and Migliaccio absent from the meeting.

Commissioner Donahue MOVED THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS APPROVAL OF THE WAIVER OF THE TRAIL REQUIREMENT ON ROUTE 7.

Commissioners Murphy and Litzenberger seconded the motion which carried unanimously with Commissioners Harsel and Sargeant not present for the vote; Commissioners Hall, Lawrence, and Migliaccio absent from the meeting.

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ADJOURNMENT

September 16, 2010

The meeting was adjourned at 11:36 p.m.

Peter F. Murphy, Jr., Chairman

Suzanne F. Harsel, Secretary

Audio and video recordings of this meeting are available at the Planning Commission Office,  
12000 Government Center Parkway, Suite 330, Fairfax, Virginia 22035.

Meeting taken by: Kara A. DeArrastia

Minutes by: Linda B. Rodeffer

Approved on: September 29, 2011

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Kara A. DeArrastia, Clerk to the  
Fairfax County Planning Commission